

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CHAMBER OF COMMERCE OF THE
UNITED STATES; CALIFORNIA
CHAMBER OF COMMERCE;
EMPLOYERS GROUP; CALIFORNIA
HEALTHCARE ASSOCIATION;
CALIFORNIA MANUFACTURERS AND
TECHNOLOGY ASSN.; CALIFORNIA
ASSOCIATION OF HEALTH FACILITIES;
CALIFORNIA ASSOCIATION OF HOME
& SERVICES FOR THE AGING; BETTEC
CORPORATION; MARKSHERM
CORPORATION; ZILACO INC., ZILACO;
DEL RIO HEALTHCARE, INC.;
BEVERLY HEALTH & REHABILITATION
SERVICES, INC. Dba Beverly Manor
Costa Mesa; INTERNEXT GROUP,
Plaintiffs-Appellees,

AMERICAN FEDERATION OF
LABOR AND CONGRESS OF
INDUSTRIAL ORGANIZATIONS;
CALIFORNIA LABOR FEDERATION,
AFL-CIO,
Intervenors-Appellants,

v.

No. 03-55166
D.C. No.
CV-02-00377-GLT

BILL LOCKYER, Attorney General,
in his capacity as Attorney
General of the State of California;
DEPARTMENT OF HEALTH SERVICES;
FRANK G. VANACORE, as the Chief
of the Audit Review and Analysis
Section of the California
Department of Health Services;
DIANA M. BONTA, Diana M. Bonta,
R.N., Dr., P.h.D, as the Director
of the California Department of
Health Services,
Defendants.

CHAMBER OF COMMERCE OF THE
UNITED STATES; CALIFORNIA
CHAMBER OF COMMERCE; EMPLOYERS
GROUP; CALIFORNIA HEALTHCARE
ASSOCIATION; CALIFORNIA
MANUFACTURERS AND TECHNOLOGY
ASSN.; CALIFORNIA ASSOCIATION OF
HEALTH FACILITIES; CALIFORNIA
ASSOCIATION OF HOME &
SERVICES FOR THE AGING; BETTEC
CORPORATION; MARKSHERM
CORPORATION; ZILACO INC., ZILACO;
DEL RIO HEALTHCARE, INC.;

No. 03-55169
D.C. No.
CV-02-00377-GLT
ORDER

BEVERLY HEALTH & REHABILITATION
SERVICES, INC. Dba Beverly Manor
Costa Mesa; INTERNEXT GROUP,
Plaintiffs-Appellees,

and

AMERICAN FEDERATION OF
LABOR AND CONGRESS OF
INDUSTRIAL ORGANIZATIONS;
CALIFORNIA LABOR FEDERATION,
AFL-CIO,

Intervenors,

v.

BILL LOCKYER, Attorney General,
in his capacity as Attorney
General of the State of California;
DEPARTMENT OF HEALTH SERVICES;
FRANK G. VANACORE, as the Chief
of the Audit Review and Analysis)
Section of the California
Department of Health Services;
DIANA M. BONTA, Diana M. Bonta,
R.N., Dr., P.h.D, as the Director
of the California Department of
Health Services,

Defendants-Appellants.

Filed February 9, 2006

Before: Mary M. Schroeder, Chief Judge.

ORDER

Upon the vote of a majority of the en banc court, the opinion and dissent filed on September 6, 2005, slip op. 12167, and appearing at 422 F.3d 973 (9th Cir. 2005), are withdrawn.

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